

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE

**ORDER ADOPTING RULE 70
OF THE COURT OF COMMON PLEAS
RULES OF CIVIL PROCEDURE**

This 26th day of May 2007, IT IS ORDERED that:

- 1) The Rules of Court of Common Pleas are amended by adopting a new Civil Rule 70 as follows:

Rule 70. Confirmation of Arbitration Award in Actions Arising from Contracts to Provide Consumer Credit

(a) *Commencement of action.* A plaintiff seeking to confirm an arbitration award on actions arising from a contract to provide consumer credit shall file a complaint or application with the court within one year after the award was rendered, unless within the time limits hereinafter imposed grounds for good cause are shown. The plaintiff shall attach and file with the complaint a copy of the arbitration award.

(b) *Service.* The complaint shall be served in the manner provided for service of original process in a civil action. If service of the complaint is not made upon the defendant, the plaintiff shall, within 120 days of the return non est, file an alias or subsequent praecipe. If service is effected and a timely answer is not filed, the plaintiff shall file a motion for default judgment within twenty (20) days of the date by which an answer was due. Such motions shall be heard on the Court's routine motion calendar. Failure of the plaintiff to file a motion for default judgment shall result in dismissal, without prejudice, of the action before the Court. If the plaintiff thereafter reinitiates the action and files an amended complaint which is subsequently dismissed, the dismissal shall be with prejudice.

(c) *Voluntary Dismissal.* Where a defendant files for bankruptcy during the pendency of the action, the plaintiff shall file a motion for voluntary dismissal within twenty (20) days of receiving such notice. Unless otherwise ordered by the Court, the voluntary dismissal shall be without prejudice. Failure of the plaintiff to file the motion for voluntary dismissal shall result in the case being dismissed with prejudice. If the obligation arising from the arbitration award is not discharged in bankruptcy, the action may be reinitiated and court costs shall not be assessed.

- 2) This amendment is effective immediately.

Chief Judge

Judge

Judge

Judge

Judge

Judge

Judge

Judge

Judge